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INC., ANCESTRY.COM INC., and  
ANCESTRY.COM LLC

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ANTHONY SESSA and MARK SESSA, on  
behalf of themselves and all others similarly  
situated,

Plaintiffs,

v.

ANCESTRY.COM OPERATIONS INC., a  
Virginia Corporation; ANCESTRY.COM,  
INC., a Delaware Corporation;  
ANCESTRY.COM LLC, a Delaware Limited  
Liability Company; and DOES 1 through 50,  
inclusive,

Defendants.

Case No.: 2:20-cv-02292-GMN-BNW

**DEFENDANTS' ANSWER AND  
AFFIRMATIVE DEFENSES TO  
PLAINTIFFS' COMPLAINT**

1 **I. ANSWER**

2 By and through their undersigned counsel, and in response to the Class Action Complaint filed  
3 on December 17, 2020 by Anthony and Mark Sessa in the above-captioned proceedings  
4 (“Complaint”), defendants Ancestry.com Operations Inc., Ancestry.com Inc., and Ancestry.com LLC  
5 (collectively, “Ancestry”), generally deny plaintiffs’ allegations that Ancestry (1) violated Nevada’s  
6 Right of Publicity Statute, (2) violated Nevada’s Deceptive Trade Practices Statute, (3) committed an  
7 intrusion upon plaintiffs’ seclusion, and (4) are liable for unjust enrichment, and further answer the  
8 Complaint as follows:

9 1. Answering paragraph 1 of the Complaint, Ancestry lacks knowledge or information  
10 sufficient to form a belief as to the truth or falsity of the allegations therein, and on that basis  
11 denies each and every allegation contained therein.

12 **INTRODUCTION<sup>1</sup>**

13 2. Answering paragraph 2, to the extent this allegation asserts a legal conclusion, no  
14 response is required. Answering further, Ancestry admits that plaintiffs purport to bring this suit  
15 as a class action against Ancestry, but denies that this suit is proper for class adjudication. Other  
16 than as specifically admitted, Ancestry denies, generally and specifically, each and every  
17 allegation contained therein.

18 3. Answering paragraph 3, Ancestry admits it operates the world’s largest  
19 subscription collection of genealogy databases that contain billions of historical records that  
20 themselves contain various information, including biographical information. Ancestry admits it  
21 sells access to those historical records and provides other services for subscription fees. Ancestry  
22 admits the subject of this suit is Ancestry’s “U.S., School Yearbooks, 1900-1999” database  
23 (“Ancestry Yearbook Database”). Ancestry admits that it constructed its Yearbook Database  
24 through physical yearbooks that have been converted into digital records. Ancestry admits that  
25 the Yearbook Database includes yearbook records that contain names, photographs, and schools

26 \_\_\_\_\_  
27 <sup>1</sup> This document adopts the headings of the Complaint only for the Court’s ease of reference.  
28 Ancestry disclaims any suggestion that it agrees with or admits any alleged statements contained  
in the headings.

1 attended. Ancestry admits that the Ancestry Yearbook Database contains yearbook records of  
2 millions of individuals who attended high school in the United States. Ancestry admits that a  
3 search for school lists and yearbook records in “Nevada, USA” yields more than 1.7 million  
4 results. Ancestry denies plaintiffs’ characterization of these facts. Other than as specifically  
5 admitted, Ancestry denies, generally and specifically, each and every allegation contained  
6 therein.

7 4. Answering paragraph 4, to the extent this allegation asserts a legal conclusion, no  
8 response is required. To the extent any response is required, Ancestry denies, generally and  
9 specifically, each and every allegation contained therein.

10 5. Answering paragraph 5, to the extent this allegation asserts a legal conclusion, no  
11 response is required. To the extent any response is required, Ancestry lacks knowledge or  
12 information sufficient to form a belief as to the truth or falsity of the allegation and, on that basis,  
13 denies, generally and specifically, each and every allegation contained therein.

14 6. Answering paragraph 6, to the extent this allegation asserts a legal conclusion, no  
15 response is required. Ancestry admits it sells services and access to its records databases, which  
16 includes Ancestry’s Yearbook Database for subscription plans that range in payments between  
17 \$16.50 and \$49.99 per month, depending on the plan. Ancestry admits its subscribers have the  
18 ability to search, view, and download records contained in the Ancestry databases, including the  
19 records contained in Ancestry’s Yearbook Database. Ancestry denies plaintiffs’ characterization  
20 of these facts. Other than as specifically admitted, Ancestry denies, generally and specifically,  
21 each and every allegation contained therein.

22 7. Answering paragraph 7, to the extent this allegation asserts a legal conclusion, no  
23 response is required. To the extent any response is required, Ancestry denies, generally and  
24 specifically, each and every allegation contained therein.

25 8. Answering paragraph 8, to the extent this allegation asserts a legal conclusion, no  
26 response is required. Answering further, Ancestry admits that it offers a 14-day “free trial” for its  
27 products and services. Ancestry further admits that those who sign up for the “free trial” provide  
28 payment information but are only billed if they have not canceled before the expiration of the free

1 trial. Ancestry admits that “free trial” users may cancel before the 14-day period expires without  
2 incurring any charges. Ancestry admits that “free trial” users may search Ancestry’s databases,  
3 including its Yearbook Database, for names of any people they may know or be curious about.  
4 Ancestry admits that searching Ancestry’s Yearbook Database with parameters chosen by the  
5 user will generally yield a list of records available in Ancestry’s Yearbook Database. Ancestry  
6 admits that list generally contains the parameters that can be entered by the user (name and  
7 school location), as well as a yearbook photograph, estimated age at the time the yearbook  
8 photograph was taken, school name, and yearbook year, but denies that the list contains anything  
9 more than that. Ancestry admits “free trial” users may view and download certain search results  
10 if they choose to do so, including some records that contain full-resolution yearbook photos.  
11 Ancestry denies plaintiffs’ characterization of these facts. Other than as specifically admitted,  
12 Ancestry denies, generally and specifically, each and every allegation contained therein.

13 9. Answering paragraph 9, to the extent this allegation asserts a legal conclusion, no  
14 response is required. To the extent any response is required, Ancestry denies, generally and  
15 specifically, each and every allegation contained therein.

16 10. Answering paragraph 10, to the extent this allegation asserts a legal conclusion, no  
17 response is required. Ancestry admits it provides a limited-access version of its website that can  
18 be accessed by anyone visting the site and without signing in, providing contact information, or  
19 signing up for the “free trial.” Ancestry admits that users of the limited-access version of the site  
20 may search Ancestry’s databases, including its Yearbook Database, for names of any people they  
21 may know or be curious about. Ancestry admits that searching Ancestry’s Yearbook Database  
22 with parameters chosen by the user will generally yield a corresponding list of records available  
23 in Ancestry’s Yearbook Database. Ancestry admits that list will generally contain parameters  
24 that can be entered by the user (name and school location (State, Country)), but denies that the  
25 list contains anything more than that. Ancestry admits that on some (but not all) screens, users of  
26 the limited-access website, may hover over the link titled “View Record” and may view a small  
27 thumbnail image of a full record page and that below the image appear the words “Sign up now.”  
28 Ancestry admits that users of the limited-access version of the website generally may not view

1 the full record, including any full-resolution photograph or additional information contained  
2 therein (such as estimated age at the time the yearbook photograph was taken, name of school,  
3 and yearbook year). Ancestry admits that clicking to view a record or information contained  
4 within the record will generally redirect a user of the limited-access version of the website to a  
5 page that, among other things, shows the membership options and provides a link to start the free  
6 trial period. Ancestry denies plaintiffs' characterization of these facts. Other than as specifically  
7 admitted, Ancestry denies, generally and specifically, each and every allegation contained  
8 therein.

9 11. Answering paragraph 11, to the extent this allegation asserts a legal conclusion, no  
10 response is required. To the extent any response is required, Ancestry denies, generally and  
11 specifically, each and every allegation contained therein.

12 12. Answering paragraph 12, to the extent this allegation asserts a legal conclusion, no  
13 response is required. Ancestry admits that one of the services Ancestry provides is that of  
14 alerting a user to the existence of records (including, among others, yearbook and death records)  
15 within Ancestry's databases that, based on user-inputted information, Ancestry believes may be  
16 of interest to that user. Ancestry denies that Anthony Sessa and Mark Sessa have ever been the  
17 subjects of any "targeted promotional email" message. Ancestry denies plaintiffs'  
18 characterization of these facts. Other than as specifically admitted, Ancestry denies, generally  
19 and specifically, each and every allegation contained therein.

20 13. Answering paragraph 13, to the extent this allegation asserts a legal conclusion, no  
21 response is required. Ancestry admits that it continues to add records to its various databases,  
22 including the Ancestry Yearbook Database, which contains records with names, photographs,  
23 school attended, and estimated ages at the time the photographs were taken. Ancestry admits that  
24 the Ancestry Yearbook Database contains more than one million (but less than two million)  
25 Nevada yearbook records. Ancestry admits that access to yearbook records is one of the many  
26 products and services that Ancestry provides to its users. Ancestry denies plaintiffs'  
27 characterization of these facts. Other than as specifically admitted, Ancestry denies, generally  
28 and specifically, each and every allegation contained therein.

1           14.     Answering paragraph 14, to the extent this allegation asserts a legal conclusion, no  
2 response is required. To the extent any response is required, Ancestry denies, generally and  
3 specifically, each and every allegation contained therein.

4           15.     Answering paragraph 15, to the extent this allegation asserts a legal conclusion, no  
5 response is required, and the cited statutes and authorities speak for themselves. To the extent  
6 any response is required, Ancestry denies, generally and specifically, each and every allegation  
7 contained therein.

#### 8                                   **JURISDICTION AND VENUE**

9           16.     Answering paragraph 16, to the extent this allegation asserts a legal conclusion, no  
10 response is required. To the extent any response is required, Ancestry contests both personal  
11 jurisdiction over Ancestry and subject matter jurisdiction on the basis plaintiffs lack standing.  
12 Answering further, Ancestry admits that Ancestry.com Operations Inc. is incorporated in Virginia  
13 and that Ancestry.com Inc. and Ancestry.com LLC are both incorporated in Delaware. Ancestry  
14 admits that Ancestry.com Operations Inc., Ancestry.com Inc., and Ancestry.com LLC each have  
15 their headquarters in Lehi, Utah. Ancestry admits that plaintiffs purport to bring this action on  
16 behalf of at least 100 Nevada residents, but denies that this action is appropriate for class  
17 treatment. Ancestry admits its Yearbook Database contains about 730 million records, collected  
18 from more than 450,000 yearbooks and more than 62 million pages. Ancestry admits that a  
19 search of the Ancestry Yearbook Database for records from Nevada yields results of more than  
20 1.7 million records. Ancestry admits that for purposes of calculating jurisdiction under the Class  
21 Action Fairness Act, the amount in controversy exceeds \$5 million, but denies that plaintiffs or  
22 the purported class are entitled to any relief and further denies that this is an appropriate measure  
23 of damages. Ancestry lacks sufficient information or belief to enable it to answer the allegations  
24 of the paragraph regarding the purported class size excluding non-Nevada residents, subscribers,  
25 and the deceased, but including residents who have moved into the state, but admits that it likely  
26 includes more than 100 members. Ancestry denies plaintiffs' characterization of these facts.  
27 Other than as specifically admitted, Ancestry denies, generally and specifically, each and every  
28 allegation contained therein.

17. Answering paragraph 17, to the extent this allegation asserts a legal conclusion, no response is required. To the extent any response is required, Ancestry denies this Court has personal jurisdiction over it. Ancestry denies that it maintains substantial suit-related connections to the State of Nevada. Ancestry denies that its ownership and operation of a universally-accessible website, through which anyone can subscribe to Ancestry services, subjects Ancestry to jurisdiction in Nevada. Ancestry further denies plaintiffs' characterization of these facts. Other than as specifically admitted, Ancestry denies, generally and specifically, each and every allegation contained therein.

18. Answering paragraph 18, to the extent this allegation asserts a legal conclusion, no response is required. To the extent any response is required, Ancestry denies this is the appropriate venue or that a substantial portion of the events and conduct giving rise to the alleged violations occurred in this district. Ancestry lacks sufficient information or belief to enable it to answer allegations regarding plaintiffs' residence. Ancestry admits the putative class is defined to include only Nevada residents, but denies class treatment is appropriate. Other than as specifically admitted, Ancestry denies, generally and specifically, each and every allegation contained therein.

### INTRADISTRICT VENUE

19. Answering paragraph 19, to the extent this allegation asserts a legal conclusion, no response is required. To the extent any response is required, Ancestry denies this is the appropriate venue. Ancestry denies that a substantial portion of the events or omissions occurred in Clark County. Ancestry lacks sufficient information or belief to enable it to answer allegations regarding plaintiffs' residence. Other than as specifically admitted, Ancestry denies, generally and specifically, each and every allegation contained therein.

## PARTIES

## Defendant Ancestry

20. Answering paragraph 20, Ancestry admits that Ancestry.com Operations Inc. is a Virginia corporation with its headquarters in Lehi, Utah. Answering further, Ancestry admits it conducts business under the brand names “Ancestry.com,” and “Ancestry.” Plaintiffs’ allegation

1 that Ancestry conducts business under “other brand names associated with the various website  
2 and services it owns and operate” is too vague to determine what plaintiffs are intending to  
3 reference and, on that basis, Ancestry denies this allegation. Ancestry further admits that  
4 Ancestry.com Operations Inc. owns and operates the website Ancestry.com. Other than as  
5 specifically admitted, Ancestry denies, generally and specifically, each and every allegation  
6 contained therein.

7 21. Answering paragraph 21, Ancestry admits defendant Ancestry.com Inc. is a  
8 Delaware corporation with its headquarters in Lehi, Utah. Answering further, Ancestry admits  
9 defendant Ancestry.com LLC is a Delaware limited liability company with its headquarters in  
10 Lehi, Utah.

11 **Plaintiff Anthony Sessa**

12 22. Answering paragraph 22, Ancestry lacks sufficient information or belief to enable  
13 it to answer allegations regarding plaintiff Anthony Sessa’s residence. Ancestry also lacks  
14 sufficient information or belief and cannot confirm, with the information currently available,  
15 whether it has a subscriber of any Ancestry.com products or services matching the description of  
16 Anthony Sessa or whether there is an agreement between Ancestry and Anthony Sessa.

17 23. Answering paragraph 23, to the extent it states a legal conclusion, no response is  
18 required. To the extent any response is required, Ancestry denies, generally and specifically,  
19 each and every allegation contained therein.

20 24. Answering paragraph 24, to the extent it states a legal conclusion, no response is  
21 required. To the extent any response is required, Ancestry lacks sufficient information or belief  
22 to enable it to answer allegations regarding when Anthony Sessa first became aware that the  
23 yearbook records at issue are available on Ancestry.com and on that basis denies this allegation.  
24 Other than as specifically admitted, Ancestry denies, generally and specifically, each and every  
25 allegation contained therein.

26 25. Answering paragraph 25, to the extent this allegation asserts a legal conclusion, no  
27 response is required. Answering further, Ancestry admits it offers three subscription plans: “U.S.  
28 Discovery,” “World Explorer,” and “All Access” that carry fees between \$16.50 and \$49.99 per



1 month, depending on the plan. Ancestry denies that an exact search for “Anthony Sessa” in Nevada yields the three records at issue; that search yields no results. Ancestry denies plaintiffs’ characterization of these facts. Other than as specifically admitted, Ancestry denies, generally and specifically, each and every allegation contained therein.

26. Answering paragraph 26, to the extent this allegation asserts a legal conclusion, no response is required. Answering further, Ancestry admits that the users of the 14-day “free trial” may search for, access, and download records that match their search results. Ancestry denies that an exact search for “Anthony Sessa” in Nevada yields the three records at issue; that search yields no results. Ancestry admits that “free trial” users may search for and download records available in Ancestry’s databases. Ancestry denies plaintiffs’ characterization of these facts. Other than as specifically admitted, Ancestry denies, generally and specifically, each and every allegation contained therein.

27. Answering paragraph 27, Ancestry denies that the screenshot is the result of an exact search for the name “Anthony Sessa” in Nevada; that search yields no results. Ancestry admits that paying subscribers may search for anyone and download resulting records, if any. Ancestry lacks sufficient information or belief to enable it to answer allegations regarding plaintiffs’ counsel’s use of photo-editing software and reason for doing so. Other than as specifically admitted, Ancestry denies, generally and specifically, each and every allegation contained therein.

28. Answering paragraph 28, to the extent this allegation asserts a legal conclusion, no response is required, and the records speak for themselves. To the extent any response is required, Ancestry denies, generally and specifically, each and every allegation contained therein.

29. Answering paragraph 29, to the extent this allegation asserts a legal conclusion, no response is required. Answering further, Ancestry admits it offers three paid subscription plans: “U.S. Discovery,” “World Explorer,” and “All Access.” Ancestry admits that users of the limited-access version of the website may search for records in Ancestry’s Yearbook Database and may view a limited portion of the information in those records, including the name, school location (State, Country), and thumbnail image of the record. Ancestry denies that cities of

1 residence are available and viewable through the limited-access version of Ancestry.com.  
2 Ancestry denies the three yearbook records at issue are a result of an exact search for “Anthony  
3 Sessa” in Nevada; that search yields no results. Ancestry denies plaintiffs’ characterization of  
4 these facts. Other than as specifically admitted, Ancestry denies, generally and specifically, each  
5 and every allegation contained therein.

6 30. Answering paragraph 30, to the extent this allegation asserts a legal conclusion, no  
7 response is required. Answering further, Ancestry denies that an exact search for “Anthony  
8 Sessa” in Nevada yields the three records at issue; that search yields no results. Other than as  
9 specifically admitted, Ancestry denies, generally and specifically, each and every allegation  
10 contained therein.

11 31. Answering paragraph 31, Ancestry denies that an exact search for “Anthony Sessa”  
12 in Nevada yields the three records shown in the Complaint; that search yields no results. Other  
13 than as specifically admitted, Ancestry denies, generally and specifically, each and every  
14 allegation contained therein.

15 32. Answering paragraph 32, to the extent this allegation asserts a legal conclusion, no  
16 response is required. Answering further, Ancestry admits that the three records at issue remain in  
17 Ancestry’s Yearbook Database but denies that Anthony Sessa has ever been the subject of a  
18 “targeted promotional email” message. Ancestry denies plaintiffs’ characterization of these facts.  
19 Other than as specifically admitted, Ancestry denies, generally and specifically, each and every  
20 allegation contained therein.

21 33. Answering paragraph 33, to the extent this allegation asserts a legal conclusion, no  
22 response is required. To the extent any response is required, Ancestry denies, generally and  
23 specifically, each and every allegation contained therein.

24 **Plaintiff Mark Sessa**

25 34. Answering paragraph 34, Ancestry lacks sufficient information or belief to enable  
26 it to answer allegations regarding plaintiff Mark Sessa’s residence. Ancestry also lacks sufficient  
27 information or belief and cannot confirm, with the information currently available, whether it has  
28 a subscriber of any Ancestry.com products or services matching the description of Mark Sessa or

1 whether there is an agreement between Ancestry and Mark Sessa.

2 35. Answering paragraph 35, to the extent it states a legal conclusion, no response is  
3 required. To the extent any response is required, Ancestry denies, generally and specifically,  
4 each and every allegation contained therein.

5 36. Answering paragraph 36, to the extent it states a legal conclusion, no response is  
6 required. To the extent any response is required, Ancestry lacks sufficient information or belief  
7 to enable it to answer allegations regarding when Mark Sessa first became aware that the  
8 yearbook records at issue are available on Ancestry.com and on that basis denies this allegation.  
9 Other than as specifically admitted, Ancestry denies, generally and specifically, each and every  
10 allegation contained therein.

11 37. Answering paragraph 37, to the extent this allegation asserts a legal conclusion, no  
12 response is required. Answering further, Ancestry admits it offers three subscription plans: “U.S.  
13 Discovery,” “World Explorer,” and “All Access” that carry fees of between \$16.50 and \$49.99  
14 per month, depending on the plan. Ancestry admits that there are four results of an exact search  
15 for yearbook records of “Mark Sessa” in Nevada: two from a 1970 yearbook from Western High  
16 School in Las Vegas, Nevada, and one two from a 1972 yearbook from that same school.  
17 Ancestry admits that paying subscribers may search for and download any records available in  
18 Ancestry’s database including these four. Ancestry denies plaintiffs’ characterization of these  
19 facts. Other than as specifically admitted, Ancestry denies, generally and specifically, each and  
20 every allegation contained therein.

21 38. Answering paragraph 38, to the extent this allegation asserts a legal conclusion, no  
22 response is required. Answering further, Ancestry admits that the users of the 14-day free trial  
23 and paying subscribers may search for, access, and download records that match their search  
24 results, including the four yearbook records matching an exact search for Mark Sessa in Nevada.  
25 Ancestry denies plaintiffs’ characterization of these facts. Other than as specifically admitted,  
26 Ancestry denies, generally and specifically, each and every allegation contained therein.

27 39. Answering paragraph 39, Ancestry admits that the screenshots are, but for the  
28 blurred out photos, accurate depictions of the return of an exact search for “Mark Sessa” in

1 Nevada accessible to a paying subscriber or free trial user. Ancestry lacks sufficient information  
2 or belief to enable it to answer allegations regarding plaintiffs' counsel use of photo-editing  
3 software and reason for doing so. Other than as specifically admitted, Ancestry denies, generally  
4 and specifically, each and every allegation contained therein.

5 40. Answering paragraph 40, to the extent this allegation asserts a legal conclusion, no  
6 response is required, and the records speak for themselves. To the extent any response is  
7 required, Ancestry denies, generally and specifically, each and every allegation contained therein.

8 41. Answering paragraph 41, to the extent this allegation asserts a legal conclusion, no  
9 response is required. Answering further, Ancestry admits it offers three paid subscription plans:  
10 "U.S. Discovery," "World Explorer," and "All Access." Ancestry admits that users of the  
11 limited-access version of the website may search for records in Ancestry's Yearbook Database  
12 and may view a limited portion of the information in those records, including a thumbnail image  
13 of the record, the name, and school location (State, Country). Ancestry denies that cities of  
14 residence are available through the limited-access version of Ancestry.com. Ancestry admits that  
15 full versions of the four yearbook records matching an exact search for "Mark Sessa" in Nevada  
16 are accessible to members with paid subscription plans and those using the free trial. Ancestry  
17 denies plaintiffs' characterization of these facts. Other than as specifically admitted, Ancestry  
18 denies, generally and specifically, each and every allegation contained therein.

19 42. Answering paragraph 42, to the extent this allegation asserts a legal conclusion, no  
20 response is required. Answering further, Ancestry admits that the four records at issue are results  
21 of an exact search for yearbook records of "Mark Sessa" in Nevada accessible to a paying user or  
22 free-trial user. Ancestry admits that users of the limited-access version of the website may search  
23 for records in Ancestry's Yearbook Database and may view a limited portion of the information  
24 in those records, including thumbnail image of the record, name, and school location (State,  
25 Country). Ancestry denies that full-resolution photographs or city of residence are available and  
26 viewable through the limited-access version of Ancestry.com. Ancestry admits that on some (but  
27 not all) screens, users of the limited-access version of Ancestry.com who hover over the link  
28 titled "View Record" a pop-up page will appear with the words "There's more to see. A picture

1 of the original document, and things like estimated age at the time the yearbook photograph was  
2 taken, estimated birth year, yearbook date, school location, school.” Ancestry denies plaintiffs’  
3 characterization of these facts. Other than as specifically admitted, Ancestry denies, generally  
4 and specifically, each and every allegation contained therein.

5 43. Answering paragraph 43, Ancestry admits that the four records shown in the  
6 Complaint are results of an exact search for yearbook records of “Mark Sessa” in Nevada.  
7 Ancestry admits the other screenshots appear for certain screens when hovering over the “View  
8 Record” link corresponding to each record. Ancestry denies plaintiffs’ characterization of these  
9 facts. Other than as specifically admitted, Ancestry denies, generally and specifically, each and  
10 every allegation contained therein.

11 44. Answering paragraph 44, to the extent this allegation asserts a legal conclusion, no  
12 response is required. Answering further, Ancestry admits that the four records at issue remain in  
13 Ancestry’s Yearbook Database but denies that Mark Sessa has ever been the subject of a  
14 “targeted promotional email” message. Ancestry denies plaintiffs’ characterization of these facts.  
15 Other than as specifically admitted, Ancestry denies, generally and specifically, each and every  
16 allegation contained therein.

17 45. Answering paragraph 45, to the extent this allegation asserts a legal conclusion, no  
18 response is required. To the extent any response is required, Ancestry denies, generally and  
19 specifically, each and every allegation contained therein.

#### 20 **STATEMENT OF COMMON FACTS**

21 46. Answering paragraph 46, to the extent this allegation asserts a legal conclusion, no  
22 response is required. Ancestry admits it operates a subscription collection of genealogy databases  
23 that contain billions of historical records gathered from various sources and provides access to  
24 those records for an annual or monthly subscription fee (or free trial). Ancestry admits it collects  
25 school yearbooks, birth, marriage, death, U.S. census, immigration, military, and grave site  
26 records. Ancestry denies plaintiffs’ characterization of these facts. Other than as specifically  
27 admitted, Ancestry denies, generally and specifically, each and every allegation contained  
28 therein.

1           47.     Answering paragraph 47, to the extent this allegation asserts a legal conclusion, no  
2 response is required. Ancestry admits it continues to add records to its Yearbook Database.  
3 Ancestry admits the records within that database contain names, yearbook photos, estimated ages  
4 at the time the yearbook photographs were taken, and schools attended. Ancestry admits the  
5 physical yearbooks have been converted into digital records. Ancestry admits that the Ancestry  
6 Yearbook Database contains around 730 million records collected from more than 450,000  
7 yearbooks and more than 62 million pages. Ancestry admits that a search for school lists and  
8 yearbook records in “Nevada, USA” yields more than 1.7 million results. Ancestry denies  
9 plaintiffs’ characterization of these facts. Other than as specifically admitted, Ancestry denies,  
10 generally and specifically, each and every allegation contained therein.

11           48.     Answering paragraph 48, Ancestry admits that certain records in the Ancestry  
12 Yearbook Database include the following information: a name, photograph, name of school  
13 attended, school location, and yearbook year. Ancestry admits some records contain more  
14 information, including estimated age at the time the yearbook photograph was taken, estimated  
15 birth year, and school activities. Ancestry denies plaintiffs’ characterization of these facts. Other  
16 than as specifically admitted, Ancestry denies, generally and specifically, each and every  
17 allegation contained therein.

18           49.     Answering paragraph 49, to the extent this allegation asserts a legal conclusion, no  
19 response is required. To the extent any response is required, Ancestry denies, generally and  
20 specifically, each and every allegation contained therein.

21           50.     Answering paragraph 50, Ancestry admits there is a section on Ancestry.com  
22 providing information on yearbook donations for the Ancestry Yearbook Database. Ancestry  
23 admits that at least some of the Yearbook Database was built by yearbook donations. Ancestry  
24 denies plaintiffs’ characterization of these facts. Other than as specifically admitted, Ancestry  
25 denies, generally and specifically, each and every allegation contained therein.

26           51.     Answering paragraph 51, to the extent this allegation asserts a legal conclusion, no  
27 response is required. Ancestry admits that those who sign an agreement to donate a yearbook to  
28 Ancestry’s Yearbook Database must represent one of the following: (a) the donated yearbooks

1 are not bound by copyright restrictions, (b) the donor owns the copyright, or (c) the copyright  
2 holder grants permission to Ancestry to publish and display the donations in electronic format for  
3 the use of Ancestry members. Ancestry denies plaintiffs' characterization of these facts. Other  
4 than as specifically admitted, Ancestry denies, generally and specifically, each and every  
5 allegation contained therein.

6 52. Answering paragraph 52, to the extent this allegation asserts a legal conclusion, no  
7 response is required. Ancestry admits that the following statements appear on Ancestry.com:  
8 "Here are some examples of how yearbooks may help you in your family history: pinpoints an  
9 individual in a particular time and place[;] . . . Interests and hobbies (What activities, sports, and  
10 clubs did grandma participate in?)[;] Family linkage (Some yearbooks feature siblings at the  
11 same school. If not, look for other students with the same last name in other grades – they could  
12 be related.))[;] History (A history of the school or town may be included in the yearbook. General  
13 history such as world events, fads, and pop culture may also be found through studying a  
14 yearbook. What was 'in', fashion-wise? What world events concerned and influenced students  
15 most?)[.]" Ancestry denies plaintiffs' characterization of these facts. Other than as specifically  
16 admitted, Ancestry denies, generally and specifically, each and every allegation contained  
17 therein.

18 53. Answering paragraph 53, to the extent this allegation asserts a legal conclusion, no  
19 response is required. Ancestry admits the records at issue of Tony and Mark Sessa in Nevada  
20 remain in Ancestry's Yearbook Database. Ancestry admits it sells services and access to its  
21 records databases, which includes Ancestry's Yearbook Database, for subscription plans that range  
22 in payments between \$16.50 and \$49.99 per month, depending on the plan. Ancestry admits its  
23 subscribers and free trial users have the ability to search, view, and download records contained  
24 in the Ancestry databases, including records contained in Ancestry's Yearbook Database.  
25 Ancestry denies plaintiffs' characterization of these facts. Other than as specifically admitted,  
26 Ancestry denies, generally and specifically, each and every allegation contained therein.

27 54. Answering paragraph 54, to the extent this allegation asserts a legal conclusion, no  
28 response is required. Ancestry admits the records at issue of Tony and Mark Sessa in Nevada



1 remain in Ancestry's Yearbook Database. Ancestry admits it sells services and access to its  
2 records databases, which includes Ancestry's Yearbook Database, for subscription plans that range  
3 in payments between \$16.50 and \$49.99 per month, depending on the plan. Ancestry admits its  
4 subscribers and free trial users have the ability to search, view, and download records contained  
5 in the Ancestry databases, including records contained in Ancestry's Yearbook Database.

6 Ancestry denies plaintiffs' characterization of these facts. Other than as specifically admitted,  
7 Ancestry denies, generally and specifically, each and every allegation contained therein.

8         55. Answering paragraph 55, to the extent this allegation asserts a legal conclusion, no  
9 response is required. Ancestry admits it provides a limited-access version of its website that can  
10 be accessed by anyone visiting the site and without signing in, providing contact information, or  
11 signing up for the "free trial." Ancestry admits that users of the limited access version of the site  
12 may search Ancestry's databases, including its Yearbook Database. Ancestry admits that  
13 searching Ancestry's Yearbook Database will generally yield a corresponding list of records  
14 available in Ancestry's Yearbook Database. Ancestry admits that list will generally contain some  
15 parameters that can be entered by the user (name and school location (State, Country)), and in  
16 some (but not all) screens, a low-resolution thumbnail of the record can be seen by hovering over  
17 the "View Record" link; but Ancestry denies that the list contains anything more than that.

18 Ancestry admits that users of the limited-access version of the website may not view the full  
19 record, including a full-resolution photograph or additional information contained therein (such  
20 as estimated age at the time the yearbook photograph was taken, name of school, and yearbook  
21 year). Ancestry denies plaintiffs' characterization of these facts. Other than as specifically  
22 admitted, Ancestry denies, generally and specifically, each and every allegation contained  
23 therein.

24         56. Answering paragraph 56, to the extent this allegation asserts a legal conclusion, no  
25 response is required. Ancestry admits it provides a limited-access version of its website that can  
26 be accessed by anyone visiting the site. Ancestry admits that users of the limited-access version  
27 of the site may search Ancestry's databases, including its Yearbook Database. Ancestry admits  
28 that searching Ancestry's Yearbook Database with parameters chosen by the user will generally



1 yield a corresponding list of records available in Ancestry's Yearbook Database. Ancestry  
2 admits that list will generally contain some parameters that can be entered by the user (name and  
3 school location (State, Country)), and also a thumbnail image of the record. Ancestry admits that  
4 on some (but not all) screens, users of the limited-access version of Ancestry.com who hover  
5 over the link titled "ViewRecord" may view a pop-up page containing a low resolution thumbnail  
6 image of the record along with the words "There's more to see. A picture of the original  
7 document, and things like estimated age , birth year, yearbook date, school location, school. Sign  
8 up now." Ancestry denies plaintiffs' characterization of these facts. Other than as specifically  
9 admitted, Ancestry denies, generally and specifically, each and every allegation contained  
10 therein.

11 57. Answering paragraph 57, Ancestry lacks knowledge or information sufficient to  
12 form a belief as to the truth or falsity of the allegations therein, and on that basis denies each and  
13 every allegation contained therein.

14 58. Answering paragraph 58, to the extent this allegation asserts a legal statement or  
15 legal conclusion, no response is required. To the extent any response is required, Ancestry  
16 denies, generally and specifically, each and every allegation contained therein.

17 59. Answering paragraph 59, to the extent this allegation asserts a legal statement or  
18 legal conclusion, no response is required, and the cited statutes and/or authorities speak for  
19 themselves. To the extent any response is required, Ancestry denies, generally and specifically,  
20 each and every allegation contained therein.

#### 21 **CLASS ALLEGATIONS**

22 60. Answering paragraph 60, to the extent this allegation asserts a legal statement or  
23 legal conclusion, no response is required. To the extent a response is required, Ancestry admits  
24 that plaintiffs purport to bring this suit as a class action, but denies the action is appropriate for  
25 class treatment. Answering further, Ancestry admits plaintiffs purport to exclude certain  
26 individuals from the putative class. Other than as specifically admitted, Ancestry denies,  
27 generally and specifically, each and every allegation contained therein.

28 61. Answering paragraph 61, to the extent this allegation asserts a legal statement or

1 legal conclusion, no response is required. To the extent a response is required, Ancestry admits  
2 that as of September 2020, Ancestry represented that the Ancestry Yearbook Database contains  
3 730 million records. Answering further, Ancestry admits that the Yearbook Database on  
4 Ancestry.com contains about 1.7 million records from Nevada schools. Answering further,  
5 Ancestry admits it has more than 3 million subscribers worldwide. Ancestry lacks sufficient  
6 information or belief to enable it to answer the allegations of the paragraph regarding the  
7 purported class size excluding non-Nevada residents, subscribers, and the deceased. Other than  
8 as specifically admitted, Ancestry denies, generally and specifically, each and every allegation  
9 contained therein.

10 62. Answering paragraph 62, to the extent this allegation asserts a legal statement or  
11 legal conclusion, no response is required, and the cited statutes and/or authorities speak for  
12 themselves. To the extent any response is required, Ancestry denies, generally and specifically,  
13 each and every allegation contained therein.

14 63. Answering paragraph 63, to the extent this allegation asserts a legal statement or  
15 legal conclusion, no response is required. To the extent any response is required, Ancestry  
16 denies, generally and specifically, each and every allegation contained therein.

17 64. Answering paragraph 64, to the extent this allegation asserts a legal statement or  
18 legal conclusion, no response is required. To the extent any response is required, Ancestry  
19 denies, generally and specifically, each and every allegation contained therein.

20 65. Answering paragraph 65, to the extent this allegation asserts a legal statement or  
21 legal conclusion, no response is required. To the extent any response is required, Ancestry  
22 denies, generally and specifically, each and every allegation contained therein.

23 66. Answering paragraph 66, to the extent this allegation asserts a legal statement or  
24 legal conclusion, no response is required, and Rule 23 of the Federal Rules of Civil Procedure  
25 speaks for itself. To the extent any response is required, Ancestry denies, generally and  
26 specifically, each and every allegation contained therein.

27 67. Answering paragraph 67, to the extent this allegation asserts a legal statement or  
28 legal conclusion, no response is required, and Rule 23 of the Federal Rules of Civil Procedure

1 speaks for itself. To the extent any response is required, Ancestry denies, generally and  
2 specifically, each and every allegation contained therein.

3 **FIRST CAUSE OF ACTION**

4 **(Nev. Rev. Stat. §§ 597.770 *et seq.*)**

5 68. Answering paragraph 68, Ancestry re-alleges all its responses as if fully set forth in  
6 response.

7 69. Answering paragraph 69, to the extent this allegation asserts a legal conclusion, no  
8 response is required. To the extent a response is required, Ancestry denies, generally and  
9 specifically, each and every allegation contained therein.

10 70. Answering paragraph 70, to the extent this allegation asserts a legal conclusion, no  
11 response is required and the cited statute speaks for itself.

12 71. Answering paragraph 71, to the extent this allegation asserts a legal conclusion, no  
13 response is required. To the extent any response is required, Ancestry denies, generally and  
14 specifically, each and every allegation contained therein.

15 72. Answering paragraph 72, to the extent this allegation asserts a legal conclusion, no  
16 response is required and the cited statute speaks for itself. To the extent any response is required,  
17 Ancestry denies, generally and specifically, each and every allegation contained therein.

18 73. Answering paragraph 73, to the extent this allegation asserts a legal conclusion, no  
19 response is required and the cited statute speaks for itself. To the extent any response is required,  
20 Ancestry denies, generally and specifically, each and every allegation contained therein.  
21 Ancestry further denies that plaintiffs or the purported class are entitled to any relief.

22 74. Answering paragraph 74, to the extent this allegation asserts a legal conclusion, no  
23 response is required. To the extent a response is required, Ancestry denies, generally and  
24 specifically, each and every allegation contained therein and further denies that plaintiffs or the  
25 purported class are entitled to any relief.

**SECOND CAUSE OF ACTION**

**(Nev. Rev. Stat. §§ 598.0903 *et seq.*)**

**[Dismissed]**

75. Answering paragraph 75, Ancestry re-alleges all its responses as if fully set forth in response.

76. Answering paragraph 76, no answer is required because this Court dismissed this cause of action in its September 17, 2021 Order.

77. Answering paragraph 77, no answer is required because this Court dismissed this cause of action in its September 17, 2021 Order.

78. Answering paragraph 78, no answer is required because this Court dismissed this cause of action in its September 17, 2021 Order.

79. Answering paragraph 79, no answer is required because this Court dismissed this cause of action in its September 17, 2021 Order.

80. Answering paragraph 80, no answer is required because this Court dismissed this cause of action in its September 17, 2021 Order.

81. Answering paragraph 81, no answer is required because this Court dismissed this cause of action in its September 17, 2021 Order.

**THIRD CAUSE OF ACTION**

**(Intrusion Upon Seclusion)**

**[Dismissed]**

82. Answering paragraph 82, Ancestry re-alleges all its responses as if fully set forth in response.

83. Answering paragraph 83, no answer is required because this Court dismissed this cause of action in its September 17, 2021 Order.

84. Answering paragraph 84, no answer is required because this Court dismissed this cause of action in its September 17, 2021 Order.

85. Answering paragraph 85, no answer is required because this Court dismissed this cause of action in its September 17, 2021 Order.

1           86.     Answering paragraph 86, no answer is required because this Court dismissed this  
2 cause of action in its September 17, 2021 Order.

3           87.     Answering paragraph 87, no answer is required because this Court dismissed this  
4 cause of action in its September 17, 2021 Order.

5                                   **FOURTH CAUSE OF ACTION**

6                                   **(Unjust Enrichment)**

7                                   **[Dismissed with Prejudice]**

8           88.     Answering paragraph 88, Ancestry re-alleges all its responses as if fully set forth in  
9 response.

10          89.     Answering paragraph 89, no answer is required because this Court dismissed this  
11 cause of action with prejudice in its September 17, 2021 Order.

12          90.     Answering paragraph 90, no answer is required because this Court dismissed this  
13 cause of action with prejudice in its September 17, 2021 Order.

14          91.     Answering paragraph 91, no answer is required because this Court dismissed this  
15 cause of action with prejudice in its September 17, 2021 Order.

16          92.     Answering paragraph 92, no answer is required because this Court dismissed this  
17 cause of action with prejudice in its September 17, 2021 Order.

18                                   **PLAINTIFFS' PRAYER FOR RELIEF**

19          93.     Responding to the Prayer for Relief, Ancestry denies generally and specifically that  
20 plaintiffs or the purported class are entitled to any of the relief sought.

21                                   **II. AFFIRMATIVE DEFENSES**

22          94.     Ancestry sets forth the following affirmative defenses. In asserting these  
23 affirmative defenses, Ancestry is not assuming the burden to establish any fact or proposition  
24 where that burden is properly imposed on plaintiffs. Ancestry reserves the right to assert  
25 additional affirmative defenses based on facts that are revealed during discovery.

26                                   **FIRST AFFIRMATIVE DEFENSE**

27                                   **(Lack of Personal Jurisdiction)**

28          95.     The Court lacks personal jurisdiction over Ancestry, which does not have its

1 principal place of business or headquarters in Nevada. The only suit-related connection to  
2 Nevada that plaintiffs alleged is plaintiffs' own residence in Nevada. The Complaint should  
3 therefore be dismissed under Rule 12(b)(2) of the Federal Rules of Civil Procedure.

4 **SECOND AFFIRMATIVE DEFENSE**

5 **(Lack of Standing)**

6 96. Plaintiffs' claims are barred, in whole or in part, because plaintiffs lack standing to  
7 assert any or all of the causes of action alleged in the Complaint and they lack standing to recover  
8 on behalf of the purported classes and/or general public.

9 **THIRD AFFIRMATIVE DEFENSE**

10 **(No Injury or Damages)**

11 97. Ancestry denies that plaintiffs and/or any purported class members have suffered  
12 any injury or damage whatsoever, and further denies it is liable to plaintiffs and/or any purported  
13 class member for any injury or damage.

14 **FOURTH AFFIRMATIVE DEFENSE**

15 **(Failure to State a Claim Upon Which Relief Can be Granted)**

16 98. The Complaint and each purported cause of action alleged therein fails to state facts  
17 sufficient to constitute a cause of action against Ancestry.

18 **FIFTH AFFIRMATIVE DEFENSE**

19 **(Adequacy of Remedy at Law)**

20 99. If plaintiffs suffered any injuries or damages, those would be adequately  
21 compensated in an action at law for damages. Accordingly, plaintiffs have a complete and  
22 adequate remedy at law and are not entitled to seek injunctive or equitable relief.

23 **SIXTH AFFIRMATIVE DEFENSE**

24 **(Laches)**

25 100. Plaintiffs' claims are barred in whole or in part by the equitable doctrine of laches.

26 **SEVENTH AFFIRMATIVE DEFENSE**

27 **(Waiver)**

28 101. Plaintiffs' claims are barred in whole or in part by the equitable doctrine of waiver.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Estoppel)**

102. Plaintiffs' claims are barred in whole or in part by the equitable doctrine of estoppel.

**NINTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

103. Plaintiffs' claims are barred in whole or in part by the equitable doctrine of unclean hands.

**TENTH AFFIRMATIVE DEFENSE**

**(Statutes of Limitation)**

104. The Complaint and all of the purported causes of action contained therein are barred in whole or in part by the applicable statutes of limitation.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Failure to Mitigate Damages)**

105. Plaintiffs and/or purported class members have failed to take reasonable, necessary, appropriate, and feasible steps to mitigate their alleged damages, and to the extent of such failure to mitigate, plaintiffs and/or purported class members should be barred from recovering some or all of the alleged damages they seek.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Waiver and Release)**

106. The Complaint and the purported causes of action alleged therein are barred to the extent plaintiffs and/or purported class members have waived, released, relinquished, or abandoned any claim for relief against Ancestry with respect to the matters which are the subject of the Complaint.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Class Action Is Inappropriate)**

107. With respect to each and every allegation of the Complaint, as they relate to the request for class certification, class certification is not appropriate because there is a lack of:

- 1 a) Numerosity;
- 2 b) Commonality or community of interest;
- 3 c) Typicality;
- 4 d) An ascertainable class;
- 5 e) Adequate representation;
- 6 f) Appropriateness of relief to the putative class as a whole;
- 7 g) Predominance of common questions over questions affecting individual class
- 8 members;
- 9 h) Substantial benefit to the litigants and the court; and
- 10 i) Superiority of a class action over other available methods for fair and efficient
- 11 adjudication.

12 **FOURTEENTH AFFIRMATIVE DEFENSE**

13 **(Ancestry's Practices Are Not Deceptive)**

14 108. Any statements made by Ancestry were truthful and accurate and were not likely to  
15 mislead plaintiffs, the purported class members, or the general public.

16 **FIFTEENTH AFFIRMATIVE DEFENSE**

17 **(First Amendment)**

18 109. The claims made in the Complaint are barred in whole or in part by the First  
19 Amendment to the Constitution of the United States.

20 **SIXTEENTH AFFIRMATIVE DEFENSE**

21 **(Strategic Lawsuit Against Public Participation)**

22 110. The claims in the Complaint are subject to dismissal on the grounds that the  
23 Complaint is a strategic lawsuit against public participation.

24  
25 **SEVENTEENTH AFFIRMATIVE DEFENSE**

26 **(Preemption)**

27 111. Plaintiffs' claims are barred in whole or in part by the doctrine of preemption.  
28



**EIGHTEENTH AFFIRMATIVE DEFENSE**

**(Copyright Preemption)**

112. Plaintiffs' claims are preempted in whole or in part by the Copyright Act.

**NINETEENTH AFFIRMATIVE DEFENSE**

**(Consent)**

113. The Complaint and the purported causes of action alleged therein are barred to the extent plaintiffs and/or purported class members consented to have the information at issue publicly distributed.

**TWENTIETH AFFIRMATIVE DEFENSE**

**(Information At Issue Is Not Private)**

114. The Complaint and the purported causes of action alleged therein are barred in whole or in part because the information at issue is not private and there has been no attempt to keep it private.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

**(Unjust Enrichment)**

115. The Complaint and each purported cause of action alleged therein is barred because any recovery from Ancestry would result in plaintiffs' or a putative class member's unjust enrichment.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

**(Ratification)**

116. The alleged causes of action are barred in whole or in part because of ratification, agreement, assent, acquiescence or consent to Ancestry's alleged conduct.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**

**(Communications Decency Act)**

117. The Complaint and each purported cause of action alleged therein is barred in whole or in part by the Communications Decency Act.

1 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

2 **(Indemnity)**

3 118. If Ancestry is found in some manner responsible to plaintiffs and/or the purported  
4 class for the matters alleged in the Complaint, any such injury, damage, or other costs were  
5 proximately caused and contributed to by the negligence, fault, acts or omissions of other  
6 individuals or entities for whose conduct Ancestry is not responsible. Thus, Ancestry requests a  
7 court declaration of its right to be indemnified and held harmless by those persons or entities.

8 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

9 **(Lack of Proximate Causation)**

10 119. To the extent plaintiffs suffered any injury by reason of publication of their  
11 yearbook records, those injuries were not proximately caused by Ancestry. Plaintiffs are thus  
12 barred from recovery from Ancestry, in that any damage proven to have been sustained by  
13 plaintiffs and/or the purported class was caused by the intervening action or actions of plaintiffs,  
14 the purported class, and/or other persons or parties that were a superseding cause of their  
15 damages and not due to any act or omission on the part of Ancestry.

16 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

17 **(Absence of Malice, Reckless Indifference or Fraud Precludes Punitive Damages)**

18 120. Ancestry has not acted with malice, reckless indifference, or fraud toward plaintiffs  
19 and putative class members and, therefore, defendants cannot be liable for punitive damages.

20 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

21 **(Failure to Plead Facts Sufficient to Support Punitive Damages)**

22 121. Plaintiffs and putative class members are not entitled to receive punitive damages  
23 because plaintiffs did not plead facts sufficient to support such an award.

24 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

25 **(Right of Publicity Statutory Exemptions)**

26 122. Plaintiffs' Right of Publicity claims fail because Ancestry's challenged conduct is  
27 exempted from liability under the right of publicity statute. Specifically, where use of a name or  
28 image "is contained in material which is commercially sponsored," Nevada Revised Statute

1 §597.790 nonetheless exempts liability where, as here, “the use is not directly connected with the  
2 commercial sponsorship.” In addition, Ancestry is also exempt from liability under the Right of  
3 Publicity statute because Nevada Revised Statute §597.790 also exempts liability for use of a  
4 person’s name or likeness “in connection with a news, public affairs or sports broadcast or  
5 publication[.]”

6 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

7 **(Economic Loss Doctrine)**

8 123. The Complaint and each purported cause of action alleged therein is barred, in  
9 whole or in part, because of the economic loss doctrine.

10 **THIRTIETH AFFIRMATIVE DEFENSE**

11 **(Arbitration)**

12 124. Venue in this Court is improper to the extent plaintiffs or the putative class  
13 members they purport to represent are bound to arbitrate their disputes with Ancestry.

14  
15 WHEREFORE, Ancestry prays for judgement as follows:

- 16 1. That the Complaint be dismissed with prejudice and that plaintiffs take nothing by it;  
17 2. That defendants be awarded their costs of suit, including reasonable attorneys’ fees; and  
18 3. For such other relief as this Court deems just and proper.

19 DATED this 30<sup>th</sup> day of September, 2021 Respectfully submitted,

20 COHEN-JOHNSON, LLC

21  
22 By /s/ H. Stan Johnson

23 H. Stan Johnson, Esq.  
24 Nevada Bar No. 0265  
375 E. Warm Springs Road, Suite 104  
Las Vegas, Nevada 89119

25 Attorneys for Defendants Ancestry.com  
26 Operations Inc., Ancestry.com Inc., and  
27 Ancestry.com LLC  
28

**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b)(2)(E), I hereby certify that on this day, I caused a true and correct copy of the foregoing **ANSWER** to be served via the Court's electronic system on all registered and active parties.

DATED this 30<sup>th</sup> day of September 2021.

/s/ Sarah Gondek  
**COHEN-JOHNSON, LLC**